

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Rocmon Gardner,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Civil Action No.: 8:09-cv-2563-TLW-BHH
	)	
Officer Charlie Michael Long,	)	
	)	
Defendant.	)	
_____	)	

**ORDER**

On September 29, 2009, the plaintiff, Rocmon Gardner (“plaintiff”), filed this civil action, raising claims pursuant to 42 U.S.C. § 1983 and South Carolina law. (Doc. #1). On June 24, 2010, the defendant filed a motion for summary judgment. (Doc. # 25). The plaintiff filed a response (Doc. # 29), and the defendant filed a reply. (Doc. # 31). The case was referred to United States Magistrate Judge Bruce Howe Hendricks pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2), DSC.

This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by the Magistrate Judge to whom this case had previously been assigned. (Doc. # 34). On November 3, 2010, the Magistrate Judge issued the Report. In the Report, the Magistrate Judge recommends that the defendant’s motion for summary judgment (Doc. # 25) be granted in part and denied in part. (Doc. # 34). More specifically, the Magistrate Judge recommends that the plaintiff’s claims for violations of his First and Fourth Amendment rights, which were brought pursuant to 42 U.S.C. § 1983, be dismissed with prejudice. (Doc. # 34). The Magistrate Judge

recommends denial of the motion for summary judgment to extent that the defendant seeks dismissal with prejudice of the plaintiff's state law claims for false arrest, malicious prosecution, and battery. (Doc. #34). Instead, the Magistrate Judge recommends that the Court, pursuant to 28 U.S.C. § 1367(c), decline to exercise supplemental jurisdiction over these remaining state law claims and that these claims be dismissed without prejudice. (Doc. # 34). No objections to the Report have been filed. Objections were due on November 22, 2010.

This Court is charged with conducting a de novo review of any portion of the Magistrate Judge's Report and Recommendation to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained in that report. 28 U.S.C. § 636. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

The Court has carefully reviewed the Magistrate Judge's Report and Recommendation. It is hereby **ORDERED** that the Magistrate Judge's Report is **ACCEPTED**. (Doc. # 34). For the reasons articulated by the Magistrate Judge, the defendant's motion for summary judgment (Doc. # 25) is **GRANTED** in part and **DENIED** in part. The defendant's motion for summary judgment is **GRANTED** as to the plaintiff's 42 U.S.C. § 1983 claims for violations of his First and Fourth Amendment rights, and these claims are hereby **DISMISSED** with prejudice. The defendant's motion for summary judgment is **DENIED** to the extent the motion seeks dismissal with prejudice of the plaintiff's state law claims. Instead, pursuant to 28 U.S.C. § 1367(c), the Court declines to exercise supplemental jurisdiction over the plaintiff's state law claims. Accordingly, the plaintiff's

state law claims for false arrest, malicious prosecution, and battery are hereby **DISMISSED** without prejudice.<sup>1</sup>

**IT IS SO ORDERED.**

s/Terry L. Wooten  
United States District Judge

February 1, 2011  
Florence, South Carolina

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<sup>1</sup> The plaintiff's claim for violation of due process rights was dismissed in a prior Order issued by this Court. (Doc. # 20).